UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,887	12/27/2001	Todd Lagimonier	003636.0114	1873

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EXAMINER
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ART UNIT	PAPER NUMBER
2442	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

	Application No.	Applicant(s)
	10/026,887	LAGIMONIER ET AL.
Office Action Summary	Examiner	Art Unit
	Robert B. Harrell	2442

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 November 2010*.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2 and 4-7* is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) *1,2 and 4-7* is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on *27 December 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date *20101117*.
4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____ .

1. Claims 1, 2, and 4-7 remain presented for examination.

2. The applicant should always use this period for response to thoroughly and very closely proof read and review the whole of the application for correct correlation between reference numerals in the textual portion of the Specification and Drawings along with any minor spelling errors, general typographical errors, accuracy, assurance of proper use for Trademarks ™, and other legal symbols ®, where required, and clarity of meaning in the Specification, Drawings, and specifically the claims (i.e., ***provide proper antecedent basis for "the" and "said" within each claim***) with each claim ending in a period. Minor typographical errors (e.g., see claim 7 (line 5 "a request") as but one example) could render a Patent unenforceable and so the applicant is strongly encouraged to aid in this endeavor.

3. In view of the applicant's 30 November 2010 amendment, and remarks, directed to the rejections under the first paragraph of 35 U.S.C 112, such rejection is vacated in that a "service" is provided for a client by a second physical server as claimed. As best understood by examiner, in light of the specification, the claims encompass a client who requests a server to perform an application program service locally on the server and the client does not actually request a copy of the actual application program (i.e., the program runs on the server, not downloaded to the client and then executed on the client). As a non-limiting example, the claims encompass a client's request for the sum of 1 and 2, the server performs the mathematical addition function locally on the server and then returns the sum 3 to the client, but the server does not transmit the code itself such that the client can perform the actual function locally on the client (i.e., the claims encompass basic farmed out remote procedural call).

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this action:

A person shall be entitled to a patent unless -

(e) the invention was described in — (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for the purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language;

5. <u>**Claims 1, 2, and 4-7 are rejected under 35 U.S.C. 102 (e)**</u> as being anticipated by Jardin et al. (United States Patent Number: US 6,912,588 B1).

6. Prior to addressing the grounds of the rejections below, should this application ever be the subject of public review by third parties not so versed with the technology (i.e., access to IFW

through Public PAIR (as found on **http://portal.uspto.gov/external/portal/pair**)), this Office action will usually refer an applicant's attention to relevant and helpful elements, figures, and/or text upon which the Office action relies to support the position taken. Thus, the following citations are neither all-inclusive nor all-exclusive in nature as the whole of the reference is cited and relied upon in this action as part of the substantial evidence of record. Also, no temporal order was claimed for the acts and/or functions.

7. Per claim 1, Jardin taught a method (e.g., see Title) of service-chaining a client device request for service (e.g., see Abstract), comprising:
a) receiving a client device request (e.g., see figure 5 (504, 508)), for an application program service (e.g., see figure 1 (DATA 170) , figure 2 (DATA (260), figure 6 (640), col. 4 (line 34 "a computer program")) at a first physical server (e.g., see figure 4 (420));
b) determining with a service-chaining module of said first physical server an identity of a second physical server (e.g., see Abstract, and figure 4 (430)) within a distributed environment that is able to service (e.g., see figure 6 (640)) said request for said application program service associated with said client device request (e.g., see figure 5 (516)); and,
c) transmitting a message object from said first physical server to said second physical server (e.g., see figure 5 (536)) to enable said second physical server to service said application program service (e.g., see figure 6 (640)) to said client device in response to said client device request transmitted to said first physical server (e.g., see figure 6 (650)).

8. Per claim 2, Jardin also taught receiving said message object at said second physical server, per figure 6 (624, 628), and initiating a servicing of said client device request for said application at said second physical server per figure 6 (640, 644, 648, 650).

9. Per claim 4, claim 5, and claim 6, the predefined profile clearly was anticipated to be the most efficient path and an itinerary is required so the second server knows what to transmit to the client via the direct peer-to-peer connection between the second server and the client. Finally, it was clear that servers performed more then one request for a client per col. 7 (line 2 "requests").

10. Per claim 7, this claim does not teach or defined above the correspondingly rejected claims given above, and is also thus rejected for the same reasons given above.

11. The rejections, and grounds for rejections, under 35 U.S.C. 102(e) as presented in examiner's prior Office Action mailed 31 August 2010, are hereby maintained and incorporated in this Office Action by reference.

12. The applicant argued in his 30 November 2010 response by stating in substance that claims 1, 2 and 4-7 were rejected under 35 U.S.C. §102(e) as allegedly being anticipated by U.S. Patent No. 6,912,588 to Jardin et al.("Jardin"). The Applicants respectfully traverse the rejection. Claims 1, 2 and 4-7 recite, inter alia, determining with a service- chaining module of a first physical server an identity of a second physical server within a distributed environment that is able to service a request for an application program service associated with a client device. The inventors appreciated that conventionally a request for a service from a first server that is unable

to provide the requested service fails. Failure of a service is very frustrating to a user of a client device. The user must then attempt to take further action to determine the location of a server that is able to service a request for a service. Many inexperienced users may not be able to determine a location of a server that is able to service their request for service, leaving them completely without solution. Applicants' claims overcome such deficiencies in the art. In accordance with the claimed features, a first server determines an identity of a second server that is able to service an application program service, eliminating the otherwise conventional frustration a user of a client device might otherwise experience. Jardin appears to teach a broker for the management of client requests issued by a client computer over a client-server network. (see Abstract). Depending on its availability of resources, the broker determines whether to respond to the client request, or hand-off the client request to another server. (see Jardin, Abstract). Thus, Jardin teaches a broker that determines whether to respond to the client request, or hand-off the client request to another server. The client requests are for a particular file such as a text file, an image file, or an application software. (see col. 7, lines 13-15) Jardin fails to teach a request for an application program service, much less determining with a service chaining module of a first physical server an identity of a second physical server within a distributed environment that is able to service an application program **service** associated with a client device, as required by claims 1, 2 and 4-7. Accordingly, for at least all the above reasons, claims 1, 2 and 4-7 are patentable over the prior art of record. It is therefore respectfully requested that the rejection be withdrawn. **However**, the claims are silent with respect to any failures within the system, only that request(s) for service(s) is(are) handed off from a first server to a second server (i.e., farming out work). Nonetheless, as pointed out by the applicant, depending on the broker's (the first server) availability of resources, the broker determines whether to respond to the client request, or hand-off the client request to another server (see Jardin, Abstract). If the first server (broker) has failed, it has no resources to perform the service request and thus will hand-off the client's request to another server as taught by Jardin. Therefore, Jardin taught that a request for an application program service was handed-off, as claimed, by determining with a service chaining module of the first physical server (broker) an identity of a second physical server within a distributed environment that is able to service an application program service associated with a client device, as required by claims 1, 2 and 4-7. Again, it is noted that the claims, as amended, are directed to providing a "service" (i.e., the requested application program is executed locally on the second server, not transmitted to the client).

13. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

14. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert B. Harrell whose telephone number is (571) 272-3895. The examiner can normally be reached Monday thru Thursday from 5:30 am to 2:00 pm.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton B Burgess, can be reached at (571)272-3949. The fax phone number for all papers is (571) 273-8300.

17. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-9600.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Robert B. Harrell/
ROBERT B. HARRELL
PRIMARY EXAMINER
Art Unit 2442